

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ROBERT J. PROPST,

Petitioner,

Case # 18-CV-878-FPG

v.

ORDER

SUPERINTENDENT COLVIN,

Respondent.

Pro se Petitioner Robert J. Propst is an inmate at Five Points Correctional Facility. He submitted a writ of habeas corpus petition under 28 U.S.C. § 2254. ECF No. 1. As he alleges in more detail, Petitioner claims that he was convicted in the county court of Genesee County, New York, in violation of his constitutional rights. *Id.* Petitioner also filed an *in forma pauperis* motion (ECF Nos. 2, 4), which is granted. *See* 28 U.S.C. § 1915(a)(1). Because Respondent has not yet answered the Petition, Petitioner's motion to appoint counsel (ECF No. 3) is denied without prejudice as premature. *See* 18 U.S.C. § 3006A(a)(2)(B).

In accordance with Rules 4 and 5 of the Rules Governing § 2254 Cases in the United States District Courts, Respondent must file and serve an answer responding to the allegations in the Petition within 90 days of the date of this Order. The Answer must state whether a trial or any pre-trial or post-trial evidentiary proceeding was conducted. If so, Respondent must provide the Court with a transcript of the relevant proceedings and any related records and documents, so the materials can be filed in the official record of this case.

In addition to an answer, Respondent must file and serve, within 90 days of the date of this Order, a memorandum of law addressing each of the issues raised in the Petition with citations to supporting authority.

Within 30 days of the date this Order, Respondent may file a motion for a more definite statement or a motion to dismiss the Petition with appropriate exhibits demonstrating that an answer to the Petition is unnecessary. The timely filing of such motion will extend the time to file an answer by 14 days, but if the Court does not act upon the motion within that time, the time for filing an answer will not be extended further.

Within 30 days of the date this Order is served upon the custodian of the records, the Clerk of Court, or any other official having custody of the records of the proceedings in the county court of Genesee County, New York, leading to the conviction must submit such records to Respondent or his attorney.

If Petitioner previously appealed the judgment of conviction or an adverse judgment or order in a post-conviction proceeding, Respondent must provide the Court with a copy of the briefs, the record on appeal, and any appellate court opinions so that such documents can be filed in the official record of this case.

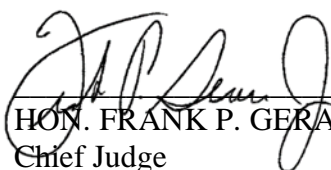
Petitioner has 30 days after he receives Respondent's answer or other pleading to file a written reply.

The Clerk of Court will electronically serve a copy of the Petition and this Order via a Notice of Electronic Filing to Alyson Gill (Alyson.Gill@ag.ny.gov), Arlene Roces (Arlene.Roces@ag.ny.gov), and Laura Stockmyer (laura.stockmyer@ag.ny.gov) of the Office of the Attorney General, Federal Habeas Unit.

Petitioner must forward a copy of all future papers and correspondence to the attorney who appears for Respondent.

IT IS SO ORDERED.

Dated: August 29, 2018
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court